

market participants from whom ISE must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high market data fees would risk alienating many of the same customers on whose orders it depends for competitive survival.

Second, the Exchange is constrained in pricing the ISE Order Feed by the availability to market participants of alternatives to purchasing ISE's market data offerings. ISE must consider the extent to which market participants would choose one or more alternatives instead of purchasing the exchange's data. Other exchanges, including some who may enjoy greater market share than ISE, are potential competitors as they too sell similar market data offerings that market participants may choose to purchase instead. For example, NASDAQ OMX PHLX ("PHLX") has filed a proposed rule change to adopt fees for a market data product that includes a data feed that is similar to the ISE Order Feed.<sup>13</sup> The PHLX' Specialized Order Feed, which PHLX has proposed to integrate into its TOPO Plus Orders market data offering, includes "real-time information to keep track of single order book(s)."<sup>14</sup> Further, the NetCoalition Order notes that one of the principal market data reforms adopted by the Commission was to authorize the independent distribution of data by broker/dealers. If one or more broker/dealers determine that the cost of subscribing to the ISE Order Feed is too high, they are entitled to independently distribute their own order data and may do so with or without charging a fee.<sup>15</sup>

In the aftermath of the NetCoalition Order, the Exchange believes that the competition among exchanges for order flow and the competition among exchanges for market data products subject ISE's proposed market data offerings to significant competitive forces. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed fees fail to meet the requirement of the Act. In sum, the availability of alternative sources of information impose significant competitive pressures on the ISE Order Feed and ISE's compelling need to attract order flow impose significant

competitive pressure on the Exchange to act equitably, fairly, and reasonably in setting its fees.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2010-34 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2010-34. This file number should be included on the subject line if e-mail is used. To help the

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>16</sup> all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2010-34 and should be submitted on or before June 15, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-12506 Filed 5-24-10; 8:45 am]

**BILLING CODE 8010-01-P**

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## **DEPARTMENT OF TRANSPORTATION**

### **Office of the Secretary**

[Docket No. DOT-OST-2010-0076]

### **Agency Request for Emergency Approval of an Information Collection**

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Transportation (DOT) provides notice that it will submit an information collection request (ICR) to the Office of Management and Budget (OMB) for emergency approval of a proposed information collection under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. 3501 *et seq.*). Upon

<sup>16</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>13</sup> See Securities Exchange Act Release No. 61878 (April 8, 2010), 75 FR 20023 (April 16, 2010) (SR-PHLX-2010-48).

<sup>14</sup> *Id.*

<sup>15</sup> NetCoalition Order at 63.

receiving the requested six-month emergency approval by OMB, OST will follow the normal, 6 month PRA procedures to obtain extended approval for this proposed information collection. This collection involves the National Infrastructure Investments Grant Program or "TIGER II Discretionary Grants" pursuant to Title I of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117, Dec. 16, 2009)) ("FY 2010 Appropriations Act"). Title I established a new program for OST to provide Supplemental Discretionary Grants for National Infrastructure Investments. OST is referring to these grants as TIGER II Discretionary Grants which include promoting economic recovery and supporting projects that have a significant impact on the Nation, Metropolitan area or a region.

The information to be collected is necessary in order to receive and evaluate applications for grant funds pursuant to the FY 2010 Appropriations Act.

The announcement of grant awards may not be made before September 15, 2010, and OST anticipates awarding grants as soon as possible thereafter. Information related to this ICR, including applicable supporting documentation may be obtained by contacting Robert Mariner, Office of the Assistant Secretary for Transportation Policy, at (202) 366-8914 or [Robert.Mariner@dot.gov](mailto:Robert.Mariner@dot.gov).

**DATES:** Comments should be submitted as soon as possible upon publication of this notice in the **Federal Register**. Comments and questions should be directed to the Office of Information and Regulatory Affairs (OIRA), Attn: OST OMB Desk Officer, 725 17th Street, NW., Washington, DC 20503. Comments and questions about the ICR identified below may be transmitted electronically to OIRA at [oira\\_submissions@omb.eop.gov](mailto:oira_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2105-New.  
*Title:* National Infrastructure Investments.

*Form Numbers:* None.

*Type of Review:* Emergency information collection request.

*Expected Number of Respondents:* 1,500.

*Frequency:* One time collection.

*Estimated Average Burden per Response:* 100 hours.

*Estimated Total Annual Burden:* 150,000 hours.

*Abstract:* On December 16, 2009, the President of the United States signed the

Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117, Dec. 16, 2009)) ("FY 2010 Appropriations Act") which appropriated \$600 million to be awarded for National Infrastructure Investments or "TIGER II Discretionary Grants." Funds for the TIGER II Discretionary Grant Program are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, Metropolitan area or a region.

On April 26, 2010, the Department published an interim notice announcing the availability of funding for TIGER II Discretionary Grants, project selection criteria, pre-application requirements, application requirements and the deadline for submitting pre-applications is no later than July 16, 2010, and final applications no later than August 23, 2010. OST will begin accepting grant applications on July 30, 2010 through [Grants.gov](http://Grants.gov) upon approval from OMB.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

**Roy Kienitz,**

*Under Secretary for Transportation Policy.*

[FR Doc. 2010-12513 Filed 5-24-10; 8:45 am]

**BILLING CODE 4910-9X-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2010-0143]

**Motor Carrier Safety Advisory Committee Public Meeting**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Motor Carrier Safety Advisory Committee meeting.

**SUMMARY:** FMCSA announces that its Motor Carrier Safety Advisory Committee (MCSAC) will hold a three-day committee meeting concerning distracted driving by commercial motor vehicle (CMV) operators, from June 8 through June 10, 2010. This meeting is open to the public.

**DATES: Meeting dates:** The meeting will be held on the following dates: Tuesday, June 8, from 8:30 a.m. to 5 p.m.; Wednesday, June 9, from 8:30 a.m. to 4:30 p.m.; and Thursday, June 10, 2010, from 8:30 a.m. to 3:30 p.m., Eastern Standard Time.

**Location:** Hilton Alexandria Old Town, Washington and Jefferson Rooms, 2nd Floor, 1767 King Street, Alexandria,

VA 22314 (located across the street from the King Street Metrorail Station).

**Subject:** FMCSA will request that MCSAC provide information, concepts, and ideas on ways to prevent distracted driving by commercial motor vehicle operators, with a particular emphasis on in-cab technologies and activities. This task will assist FMCSA in identifying options for addressing driver distraction associated with certain in-cab technologies. This activity is separate from FMCSA's current rulemaking concerning texting and the Agency's forthcoming rulemaking concerning the use of wireless telephones. In addition, FMCSA will seek information, and ideas for consideration in updating the Agency's Strategic Plan.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon L. Watson, Senior Management Analyst, Strategic Planning and Program Evaluation Division, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 385-2395, or e-mail [mcsac@dot.gov](mailto:mcsac@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish a Motor Carrier Safety Advisory Committee. The committee provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations and operates in accordance with the Federal Advisory Committee Act (5 U.S.C. App 2).

**II. Meeting Participation**

Comments from the public will be heard orally during the last hour of each day's meeting. To be assured of timely consideration, interested parties may submit written comments on the subject topic by Wednesday, June 2, 2010, to the Federal Docket Management System (FDMS) in Docket Number FMCSA-2010-0143 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Room W12-140, Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey